

A Special Meeting of the Zoning Board was held on August 30, 2006 in Meeting Room 212 at the Town Hall.

Chairman Gregory White called the meeting to order at 7:45 P.M. with the following members present:

Gregory White, Chairman
Ted C. Case, Vice Chairman
Daniel J. Cunningham, Jr., Clerk
Susanne Murphy, Member

Craig Hiltz, Associate Member
James M. Stanton, Associate Member

(minutes taken by Kate Delaney)

7:45 p.m. – Friends of Walpole Community Athletic Complete – Case No. 12-06

Mr. White read several emails that had recently been sent and received regarding this application. Mr. White also reviewed a letter dated August 30, 2006 that was received from Town Counsel, Judith Cutler. Ms. Cutler's letter stated that if the Board needed to amend their decision, they would have to do the hearing over.

Ms. Murphy stated that the notice needs to be corrected. The applicant requested an abutter's list for Parcel B, but they would actually be working on Parcel A.

Mr. Hiltz stated that the property listed in the application is owned by the Town of Walpole. The Police Dept. is asking for a change in the hauling route and they are part of the Town; therefore, the applicant is asking for a change or an amendment.

Mr. White questioned if we could call the hauling route "non-substantive". The Board and the Police Dept. want the route to be Common Street, and if someone had said that when the decision was being made, the route would have been Common St. The only reason the trucks were allowed to turn right onto Washington St. at Cumberland Farms was to allow them to dump at the DPW. However, Chief Stillman pointed out in his memo dated August 17, 2006, that to allow the trucks to turn right would be a safety issue because of Boyden School.

Mr. White pointed out that in addition to that issue, there is a constitutional problem that is bigger than the hauling route issue, which is that proper notification of the abutters was not done. He said he will talk to Attorney Tom Brady tomorrow and tell him this application needs to be redone with the proper abutter's list. Mr. Hiltz stated that the applicant did not request that. Mr. Case stated there was lack of appropriate notice and technically they do not have a decision of the parcel they are going to work on. Ms. Murphy stated that the Board could ask the applicant to withdraw without prejudice. Mr. Hiltz asked if the Board has the power to do that. Mr. White stated that due to the constitutional lack and failure of proper notice to abutters the Board would have that power, and that the letter from Town Counsel supports this action.

Mr. Hiltz questioned the portion of Town Counsel's letter that stated in part "...the Board should verify that the Assessors now have the correct information...". He does not agree that the

Board should become the “notice” police and does not want the Board to take on that responsibility.

Mr. White reiterated that the problem is that abutters are entitled to notification under the Town Bylaws, under M.G.L. Chapter 40A. It would be inappropriate for the Board, now having notice of such a defect, to ratify the aforementioned decision. Further, this action is consistent with Section 9-C of the Town of Walpole Zoning Bylaws. If the applicant takes exception to the Board’s action, they can appeal it. Mr. Cunningham agreed. Mr. White asked that a letter be sent to the applicant informing them the Board could act on a properly amended application, which lists the correct abutters, on October 4, 2006 at 7:30 p.m.

A motion was made by Mr. White, seconded by Mr. Cunningham, to nullify the Zoning Board’s decision filed with the Town Clerk on August 14, 2006 for Case No. 12-06, Friends of Walpole Community Athletic Complex, due to substantive and administrative problems.

The vote was **5-0-0 in favor**, therefore the **Zoning Board’s Decision of August 14, 2006 on Case No. 12-06 is nullified.**

REASON FOR DECISION:

The reason for the decision is that it has come to the Zoning Board’s attention, and upon following the advice of Town Counsel in a letter dated August 30, 2006, the hearing and subsequent decision are defective and/or void altogether. All direct abutters to the field did not receive notice. The application identified one parcel. Construction on any omitted parcels would need a special permit also, which would require notice and hearing.

There being no further business, the meeting was closed at 9:00 p.m.

Daniel J. Cunningham
Clerk

kd

Minutes were approved on September 19, 2007.